

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anna Steel	Team: Team # 8	CCRB Case #: 200908434	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/05/2008 4:30 PM	Location of Incident: § 87(2)(b)	Precinct: 23	18 Mo. SOL 9/5/2009	EO SOL 9/5/2009	
Date/Time CV Reported Mon, 06/01/2009 1:25 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 06/01/2009 1:25 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Edward Arias	25270	941358	023 PCT
2. POM Ramiro Ruiz	07987	939384	023 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Edward Arias	Abuse: Edward Arias stopped § 87(2)(b)	§ 87(2)(b)
B.POM Ramiro Ruiz	Abuse: PO Ramiro Ruiz stopped § 87(2)(b)	§ 87(2)(b)
C.POM Edward Arias	Force: PO Edward Arias used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Edward Arias	Abuse: PO Edward Arias frisked § 87(2)(b)	§ 87(2)(b)
E.POM Edward Arias	Abuse: PO Edward Arias searched § 87(2)(b)	§ 87(2)(b)
F.POM Edward Arias	Abuse: PO Edward Arias threatened to arrest § 87(2)(b)	§ 87(2)(b)
G.POM Edward Arias	Abuse: PO Edward Arias threatened to arrest § 87(2)(b)	§ 87(2)(b)

## Synopsis

On March 5, 2008, at about 12:30 PM, § 87(2)(b) exited his building, located at § 87(2)(b) in Manhattan, with his acquaintance, § 87(2)(b). They were approached by two officers, identified through the investigation as PO Edward Arias and PO Ramiro Ruiz from the 23<sup>rd</sup> Precinct. PO Arias instructed § 87(2)(b) to show his hands and face the wall (**Allegation A**) and PO Ruiz instructed § 87(2)(b) to do the same (**Allegation B**). § 87(2)(b) complied. PO Arias grasped § 87(2)(b)'s left shoulder, pulled him around, and kicked his legs apart (**Allegation C**). PO Arias patted the left and right sides of § 87(2)(b)'s pants (**Allegation D**), and felt inside each of his front pockets (**Allegation E**). During the frisk and search, PO Arias repeatedly remarked, "If one of these kids so much as scratches their nose, we're taking them in. We're locking them up" (**Allegation F and Allegation G**). Neither § 87(2)(b) nor § 87(2)(b) said anything in reply to PO Arias. At the conclusion of the incident, PO Arias and PO Ruiz left the scene of the incident in a marked police van.

§ 87(2)(g)

After § 87(2)(b) was arrested on § 87(2)(b), he was motivated to file this complaint about an incident that had occurred 15 months earlier.

## Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) years old. He is a black male who is 5'9" tall, weighs 160 pounds and has black hair and brown eyes. § 87(2)(b) prepared a written statement regarding the incident on March 5, 2008 (encl. 2a – 2c). § 87(2)(b) filed a complaint with the CCRB in-person on June 1, 2009 (encl. 3a – 3b), at which time he was interviewed (encl. 4a – 4d). § 87(2)(g)

On March 5, 2008, at approximately 12:30 PM, § 87(2)(b) exited his building, located at § 87(2)(b) in Manhattan, with his acquaintance, § 87(2)(b). In his written statement (encl. 2a – 2c), § 87(2)(b) stated that the incident took place at 4:30 PM. § 87(2)(b) and § 87(2)(b) stood outside of the building and waited for § 87(2)(b)'s mother, who was soon going to return home from work. § 87(2)(b) was wearing gray sweatpants, a t-shirt and a blue hooded sweatshirt. § 87(2)(b) could not recall what § 87(2)(b) was wearing at the time of the incident. While standing in front of the building, a marked police van pulled up and parked beside them. Two officers, identified through the investigation as PO Edward Arias and PO Ramiro Ruiz from the 23<sup>rd</sup> Precinct, exited the van. In his written statement (encl. 2a – 2c), § 87(2)(b) stated that four officers exited this van. § 87(2)(b) described PO Arias a black or Hispanic male who was about 5'11" to 6' tall, muscular, had black hair and was in uniform. § 87(2)(b) later saw from his shield that his name was "Arias" and his shield number was "27250." PO Arias approached § 87(2)(b) and asked him what he was doing in front of the building. In his written statement (encl. 2a – 2c), § 87(2)(b) stated that PO Arias asked him whether he had any weapons. He did not mention this in his interview with the CCRB (encl. 4a – 4d). § 87(2)(b) replied that he was waiting for his mother.

PO Arias told § 87(2)(b) to remove his hands from his pocket and turn around (**Allegation A**). Meanwhile, PO Ruiz instructed § 87(2)(b) to face the wall (**Allegation B**). § 87(2)(b) complied and § 87(2)(b) never saw any officers come into physical contact with § 87(2)(b). PO Arias grasped § 87(2)(b)'s left shoulder with one hand, pulled him around until he was facing the door of his building and kicked his legs apart (**Allegation C**). PO Arias then patted § 87(2)(b)'s left side (**Allegation D**), felt inside his left front pocket and removed his ID (**Allegation E**). PO Arias then patted § 87(2)(b)'s right side (**Within Allegation D**), and felt an object, comprised of § 87(2)(b)'s keys and some loose change, which he then removed (**Within Allegation E**). During the frisk and search, PO Arias repeatedly remarked,

“If one of these kids so much as scratches their nose, we’re taking them in. We’re locking them up” (**Allegation F and Allegation G**). In his written statement (encl. 2a – 2c), § 87(2)(b) asserted that PO Arias also remarked, “Tell your friends that we don’t care if they are young. We like juveniles; we will take them to Bridges. We make a lot of overtime.” He did not mention this in his interview with the CCRB (encl. 4a – 4c). Neither § 87(2)(b) nor § 87(2)(b) said anything in reply to PO Arias.

§ 87(2)(b) protested that he lived in the building and had not done anything wrong. PO Arias replied that he was not supposed to be loitering in front of the building because it was a no standing zone. § 87(2)(b) explained during his interview that there were no signs posted in front of his building which prohibited loitering or stated that the area was a no standing zone. § 87(2)(b) repeatedly questioned PO Arias about why he and § 87(2)(b) had been approached. PO Arias simply continued to state that § 87(2)(b) and § 87(2)(b) should not have been standing in front of the building. At the conclusion of the incident, PO Arias returned § 87(2)(b)’s belongings and the officers left the scene in the marked van. § 87(2)(b) stated that he did not immediately file a complaint regarding the incident until he was arrested during an unrelated incident in May 22, 2009.

### **Results of Investigation**

#### **Attempts to Contact Additional Civilians**

§ 87(2)(b)

§ 87(2)(b) identified § 87(2)(b) as a victim in this case. The investigation made the following attempts to obtain a formal statement from § 87(2)(b). On June 1, 2009, a letter was sent to § 87(2)(b). On this date, a search via 411.com yielded a telephone number for § 87(2)(b) which proved to be disconnected. On June 4, 2009, a submitted Verizon subpoena was returned to the investigator with no further contact information for § 87(2)(b). On June 8, 2009, a requested Lexis Nexis search yielded similarly negative results. On June 17, 2009, the investigator received a message from an individual calling in response to the letter sent to § 87(2)(b). Between June 18, 2009, and June 22, 2009, three calls were placed to this number. On the latter of these attempts, the individual was identified as § 87(2)(b)’s mother. She stated that § 87(2)(b) was presently incarcerated in a New York State Correctional Facility. On June 22, 2009, a search via the Department of Corrections did not yield any inmates bearing § 87(2)(b)’s names. Between June 23, 2009, and June 29, 2009, the investigator placed three additional calls to § 87(2)(b)’s mother requesting additional information regarding § 87(2)(b)’s incarceration status. On June 29, 2009, a final letter was sent to § 87(2)(b) care of his mother, and a final check via the Department of Corrections again failed to yield any information regarding the facility in which § 87(2)(b) was presently incarcerated. On July 22, 2009, a check via BADS did not yield any arrest reports pertaining to § 87(2)(b). As of the date of this report, neither § 87(2)(b) nor his mother has contacted the investigator with regard to the complaint filed on his behalf. In the absence of additional information, the investigator was unable to identify the correctional facility in which § 87(2)(b) was being held and was thus unable to obtain a formal statement from him regarding the incident.

#### **Police Officer Statements:**

##### **PO Edward Arias**

PO Edward Arias is § 87(2)(b) years old. He is a Hispanic male who is 5’11” tall, weighs 200 pounds and has black hair and brown eyes. PO Arias is assigned to the 23<sup>rd</sup> Precinct and has been a member of the service for three years. On the day of the incident, PO Arias was assigned to conditions and worked from 3:00 PM to 11:35 PM in uniform and in a marked police vehicle. PO Arias did not recall who his assigned partner was on the day of the incident. He did not have any entries in his memobook (encl. 5a – 5b) which pertained to the incident.

#### **CCRB Statement**

PO Arias was interviewed at the CCRB on June 30, 2009 (encl. 6a – 6b), at which time he stated that he did not have an independent recollection of an incident occurring on March 5, 2008, at § 87(2)(b) in Manhattan. PO Arias was presented with a photograph of § 87(2)(b) which he did not find familiar in any way. PO Arias did not find the names § 87(2)(b) or § 87(2)(b) familiar in any way. PO Arias was not specifically familiar with § 87(2)(b) but stated that the section of Madison Avenue falling within the confines of the 23<sup>rd</sup> Precinct is a drug prone location from which assaults and robberies are commonly reported. PO Arias did not recall stopping two males in front of a building on Madison Avenue. He did not recall anyone explaining that they were waiting for their mother. He did not recall physically grasping someone by the shoulder or arm, turning them around and placing them against a wall, or kicking their feet apart. He did not recall frisking anyone, feeling any objects during a frisk, reaching inside someone's pocket to remove their identification, and did not recall remarking, "If one of these kids so much as scratches their noses, we're taking them in, we're locking them up." PO Arias did not recall explaining to anyone that they could not stand or loiter in front of a building. PO Arias stated that he had noted in his memobook that he stopped two males at East 108<sup>th</sup> Street and Madison Avenue at 5:30 PM and, at 5:40 PM, had reportedly prepared a stop, question and frisk report for both individuals. PO Arias did not recall anything regarding this entry, did not recall the circumstances under which the two males were stopped or the offense for which they were suspected and did not record the numbers corresponding to the stop, question and frisk reports he prepared for these two individuals. PO Arias did not have any other details regarding the stop at East 108<sup>th</sup> Street and Madison Avenue recorded in his memobook.

#### **PO Ramiro Ruiz**

PO Ramiro Ruiz's memobook (encl. 7a – 7b) did not contain any entries pertaining to the incident. The investigation did not obtain a formal statement from PO Ruiz regarding the incident. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

#### **Map of Incident Location**

A map of the incident location (encl. 8) shows that § 87(2)(b) is located between § 87(2)(b) in Manhattan.

#### **Communication Records:**

A request for any SPRINT records pertaining to the incident was returned to the investigator with negative results (encl. 14k).

#### **Police Department Documents:**

##### **23<sup>rd</sup> Precinct Roll Call**

PO Arias and PO Ruiz were not listed on the roll call for March 5, 2008 (encl. 9a – 9j).

##### **Stop, Question and Frisk Log**

According to a stop, question and frisk log for March 5, 2008 (encl. 10a – 10c), no reports were prepared for § 87(2)(b) or § 87(2)(b) on the day of the incident.

##### **Civilian Criminal Conviction History**

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

##### **Notice of Claim**

As of July 31, 2009, the Comptroller's Bureau of Law and Adjustment determined that § 87(2)(b) and § 87(2)(b) have not filed a notice of claim with regard to the incident (encl. 11).

### **Officer CCRB History**

PO Arias has been a member of the service for three years, PO Ruiz has been a member of the service for four years, and they have had no CCRB allegations substantiated against them (encl. 1a – 1b).

## **Conclusions and Recommendations**

### **Officer Identification**

§ 87(2)(b) alleged that an officer stopped and used force against him, frisked and searched him and threatened him with arrest. He alleged that this officer also threatened to arrest § 87(2)(b) § 87(2)(b) described this officer as a black or Hispanic male who was about 5'11" to 6' tall, muscular, had black hair and wore a shield bearing the name 'Arias' and the number '27250.' § 87(2)(g)

§ 87(2)(b) alleged that the officer with PO Arias' stopped § 87(2)(b) As the investigation was ultimately unable to obtain a formal statement from § 87(2)(b) the identity of the officer who allegedly stopped him could not be ascertained. § 87(2)(g)

### **Undisputed Facts**

§ 87(2)(g)

### **Disputed Facts**

§ 87(2)(g)

### **Assessment of Evidence**

§ 87(2)(b) stated in his interview with the CCRB (encl. 4a – 4d) that the incident took place at 12:30 PM, yet contrastingly stated in a written statement that the incident occurred at 4:30 PM (encl. 2a – 2c). Given that § 87(2)(b) identified PO Arias' by name, shield and physical appearance, thus reasonably showing that PO Arias was the officer with whom he interacted on the day of the incident, and given that PO Arias' memobook (encl. 5a – 5b) verified that he did not begin his tour until 3:00 PM, the investigation determined that the incident took place some time between 3:00 PM and 4:30 PM.

§ 87(2)(b) alleged that PO Ruiz instructed § 87(2)(b) to face the wall. § 87(2)(g) § 87(2)(b) asserted that PO Arias stopped him, used force against him, frisked and searched him, and threatened both him and § 87(2)(b) with arrest when remarking, "If one of these kids so much as scratches their nose, we're taking them in. We're locking them up." § 87(2)(g)

PO Arias did not recall stopping anyone, using force against anyone, frisking or searching anyone, or threatening anyone with arrest on the day of the incident. PO Arias did not that, as per his memobook, he stopped two males at Madison Avenue and East 108<sup>th</sup> Street (encl. 5a – 5b). However, a map of the incident location (encl. 8) shows that § 87(2)(b) is located between § 87(2)(b) § 87(2)(b) Street. Additionally, the time of the stop noted in PO Arias' memobook was listed as occurring several hours after § 87(2)(b) was allegedly stopped. § 87(2)(g)

There were no communication records (encl. 14k) pertaining to the incident and a stop, question and frisk log from the 23<sup>rd</sup> Precinct (encl. 10a – 10c) shows that no reports were prepared for § 87(2)(b) or § 87(2)(b) on the day of the incident and that no reports were prepared by PO Arias on this date. § 87(2)(g)

**Allegation A. PO Edward Arias stopped** § 87(2)(b)  
**Allegation C. PO Edward Arias used physical force against** § 87(2)(b)  
**Allegation D. PO Edward Arias frisked** § 87(2)(b)  
**Allegation E. PO Edward Arias searched** § 87(2)(b)  
**Allegation F. PO Edward Arias threatened to arrest** § 87(2)(b)

§ 87(2)(g)

**Allegation B. PO Ramiro Ruiz stopped** § 87(2)(b)  
**Allegation G. PO Edward Arias threatened to arrest** § 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: